

ZONING CHANGE REVIEW SHEET

CASE: C14-06-0191

Z.A.P. DATE: January 23, 2007

ADDRESS: 11421 – 11717 South IH-35 Service Road Northbound

OWNER: Onion Associates, Ltd.
(Bruce T. Morrison)

AGENT: Vaughn & Associates, Ltd.
(Rick Vaughn)

ZONING FROM: I-RR **TO:** RR for Tract 1 (39.371 acres); **AREA:** 87.884 acres
MF-2-CO for Tract 2 (48.513 acres)

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant rural residence (RR) district zoning for Tract 1 and multi-family residence low density – conditional overlay (MF-2-CO) combining district zoning for Tract 2. The Conditional Overlay limits the density to 12 units per acre.

The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated January 25, 2007, as provided in Attachment A.

ZONING & PLATTING COMMISSION RECOMMENDATION:

January 23, 2007: *APPROVED STAFF'S RECOMMENDATION OF RR FOR TRACT 1; MF-2-CO FOR TRACT 2; WITH CONDITIONS OF THE TRAFFIC IMPACT ANALYSIS, WITH AN ADDITIONAL CONDITIONAL OVERLAY OR RESTRICTIVE COVENANT THAT TRACT 1 REMAIN UNDEVELOPED WITH THE EXCEPTION OF CIVIC USES THAT ARE COMPLEMENTARY TO ONION CREEK.*

[J. MARTINEZ, S. HALE 2ND] (8-0) J. PINNELLI – ILL

ISSUES:

This section provides information in response to concerns raised by an adjacent property owner.

Floodplain

The Applicant has filed an appeal to the new FEMA maps that are currently being prepared. The purpose of the Applicant's appeal is to demonstrate through elevation data that the 100-year floodplain is not within the MF-2 portion of this zoning case (Tract 2). City of Austin Floodplain Staff has reviewed the Applicant's elevations and is in agreement with the data, and has forwarded this information to FEMA for their review and approval. Please refer to Attachment B. The new FEMA maps are scheduled to be available within three months. Provided the Applicant's appeal is approved by FEMA, the 100-year floodplain will be contained by Tract 1 and therefore, outside of Tract 2. (For reference, the aerial provided as Exhibit A-1 shows the existing 100-year floodplain extending through the northern portion of Tract 2).

Water and Wastewater Service

The property has been located within the Creedmoor – Maha Water Supply Corporation CCN (Certificate of Convenience and Necessity). At this time, the City cannot provide water service to the Fox Hill area until Creedmoor is fully able to release this property, including necessary State and federal actions. According to the City's Water Utility Staff, the Applicant and other nearby landowners have requested a release from Creedmoor – Maha. The Applicant has also filed a City Service Extension Request (SER) in conjunction with the Preliminary Plan that is presently under Staff review. There are numerous water system requirements due to the limited capacity of water lines in this area. In order to meet these requirements, improvements to the Pilot Knob reservoir are necessary. Approval of the Preliminary Plan of Fox Hill is contingent upon resolution to the issue of release from the Creedmoor – Maha CCN and an approved SER. For wastewater service, the Applicant has also submitted a SER to tie into the Onion Creek Wastewater Treatment Plant (owned by the City of Austin). However, the City's position is that the water issue must first be resolved prior to approval of an SER for wastewater service.

Preliminary Plan in process

The Applicant has provided Staff with an initial copy of the Preliminary Plan filed for the entire Fox Hill development, which includes land in the City limits (the proposed multi-family portion) and a single family residential subdivision (presently within the County). Please refer to Exhibit B. The single family residential portion of Fox Hill shows four stub-streets that provide access the adjacent property owner's land, including Antone Blue, a collector street that intersects IH-35 and extends east. A wastewater lift station is required for the Fox Hill development and wastewater flow is planned to be pumped back to the Onion Creek plant. The Applicant's engineer has informed Staff that the wastewater system is sized for this drainage basin's acreage which consists of a portion of the adjacent property owner's land (Spillmann), a portion of a property owner further south (Urban), St. Alban's Episcopal Church property and a 58-acre tract further south (Conn). In addition, water and wastewater lines will be stubbed out at the adjacent property owner's land. These issues are also summarized in letters from the Applicant's representative and an adjacent property owner, provided at the very back of the Staff report.

The Applicant is in agreement with the recommendation of the Zoning and Platting Commission.

DEPARTMENT COMMENTS:

The subject property is used for agricultural purposes, zoned interim – rural residence (I-RR, upon its annexation into the City limits) and takes access to the northbound IH-35 frontage road. Onion Creek extends through the northern portion of this property and borders on the Onion Creek subdivision to the north (townhomes – I-SF-2 and the golf course – CR-CO). The south property line also forms a segment of the City limit line, and there is a church and undeveloped land to the south and agricultural land to the east (County). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant proposes to create two zoning tracts. Tract 1 is proposed for rural residence (RR) zoning as it contains Onion Creek and Tract 2 is proposed for multi-family residence low density – conditional overlay (MF-2) with the Applicant's proposed density limit of 12 units per acre. Rural residence zoning is an appropriate district for Onion Creek and its 100-year floodplain and MF-2 zoning is an appropriate residential district and density along the IH-35 northbound frontage road, in proximity to a residential subdivision, and is consistent with a similarly situated multi-family residential development directly on the north side of the Onion Creek subdivision.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	I-RR	100-year flood plain; Agricultural
<i>North</i>	I-RR; I-SF-2; CR-CO	Townhomes; Onion Creek Golf Course
<i>South</i>	County	Religious assembly; Agricultural
<i>East</i>	County	Agricultural
<i>West</i>	N/A	Northbound frontage road and main lanes of IH-35

AREA STUDY: N / A

TIA: Is required – Please refer to Attachment A

WATERSHED: Onion Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

300 – Terrell Lane Interceptor Association
 428 – Barton Springs / Edwards Aquifer Conservation District
 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District

SCHOOLS:

Menchaca Elementary School Paredes Middle School Charles Akins High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-05-0101 – Onion Creek Commercial	I-SF-2 to GR	To Grant LR-CO with CO for 2,000 trips	Approved LR-CO as Commission recommended (9-1- 05).
C14-04-0178 – Monroe	I-SF-2 to LR	To Grant LR-CO with the CO prohibiting drive-in services	Approved LR-CO (1- 13-05).

C14-04-0111 – UTOTEM Rockbay	I-RR to GR	To Grant GR-CO with CO for a list of prohibited uses and 2,000 trips	Approved GR-CO as recommended by the ZAP (10-7-04)
C14-04-0074 – Onion Creek Commercial	I-RR to GR for Tract 1; CS-1 for Tract 2 and SF-6 for Tract 3	To Grant GR-CO for Tract 1; CS-1-CO for Tract 2 with the CO for a list of prohibited uses, and SF-6 for Tract 3 with a Restrictive Covenant for the TIA memo	Approved GR-CO for Tract 1, CS-1-CO for Tract 2 and SF-6 for Tract 3; a Restrictive Covenant for the TIA memo, as Commission recommended (9-30- 04).
C14-04-0044 & C14-04-0045 – Onion Creek Tracts 1 and 2	I-RR to CR	To Grant CR-CO with CO for list of prohibited uses	Approved CR-CO as recommended by Commission (5-6-04).
C14-04-0020 – Double Creek Phase 2, Tracts 1 and 2	I-RR (Upon Annexation) to CS-MU for Tract 1; MF-3 for Tract 2	To Grant CS-MU-CO with the CO for a list of prohibited uses for Tract 1; MF-2 for Tract 2 with conditions of the TIA memo	Approved CS-MU- CO; MF-2 as recommended by Commission with a Restrictive Covenant for the TIA memo (5- 6-04).

RELATED CASES:

This property was annexed into the Full-Purpose Jurisdiction on December 31, 2003.

ABUTTING STREETS:

STREET	RIGHT- OF- WAY	PAVEMENT WIDTH	CLASSIFICATION	DAILY TRAFFIC
IH-35	Varies; 300-400 feet	Varies	6 lane Freeway	115,000 (2000)

- IH-35 is classified in the Bicycle Plan as a Priority 2 bike route.
- Capital Metro bus service is not available within 1/4 mile of this property.

CITY COUNCIL DATE: February 15, 2007

ACTION: Approved a Postponement request by the adjacent property owner to March 8, 2007 (7-0).

March 8, 2007

Approved a Postponement request by the Staff to March 22, 2007 (6-0, McCracken -- off the dais).

March 22, 2007

ORDINANCE READINGS: 1st

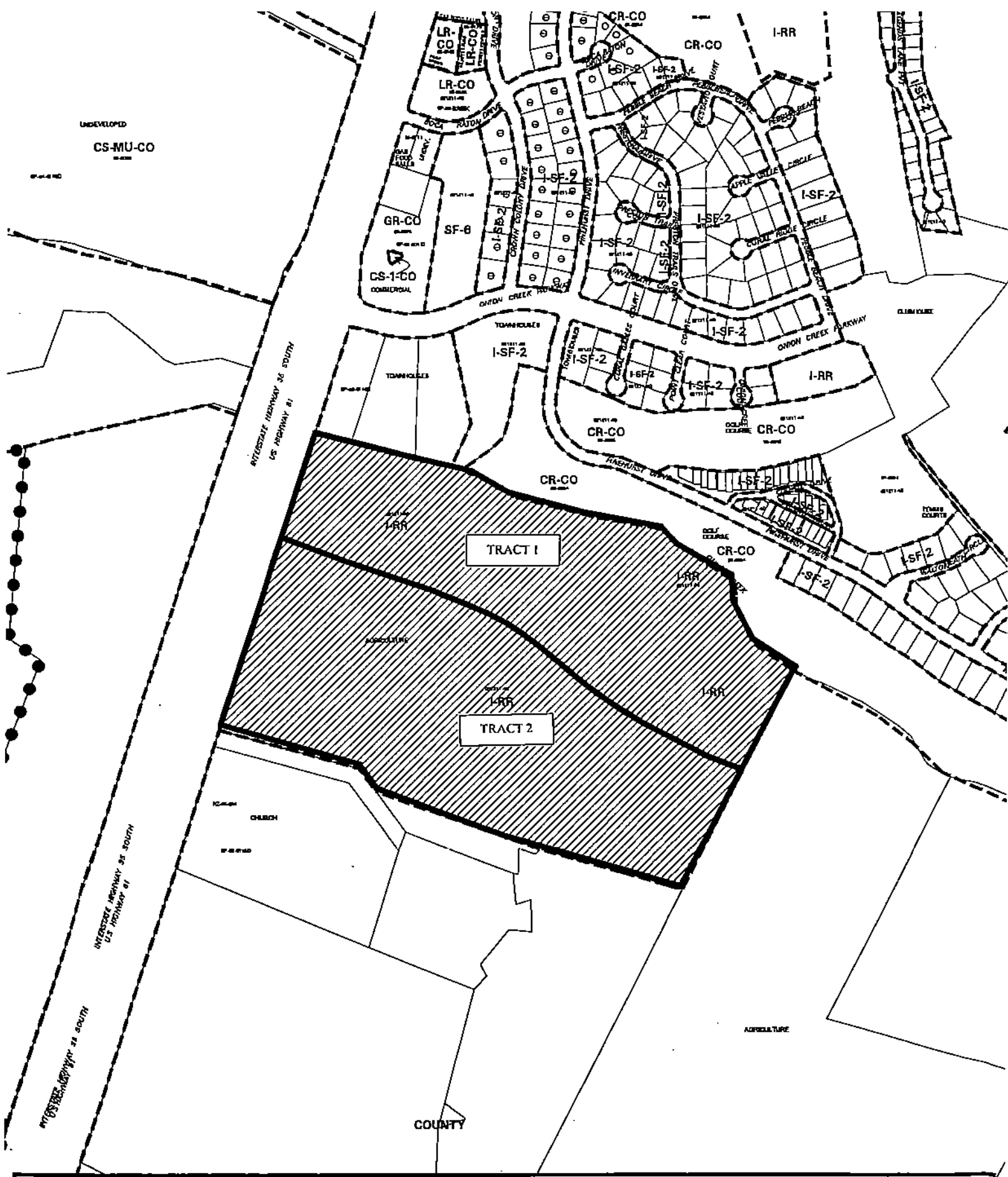
2nd





3rd

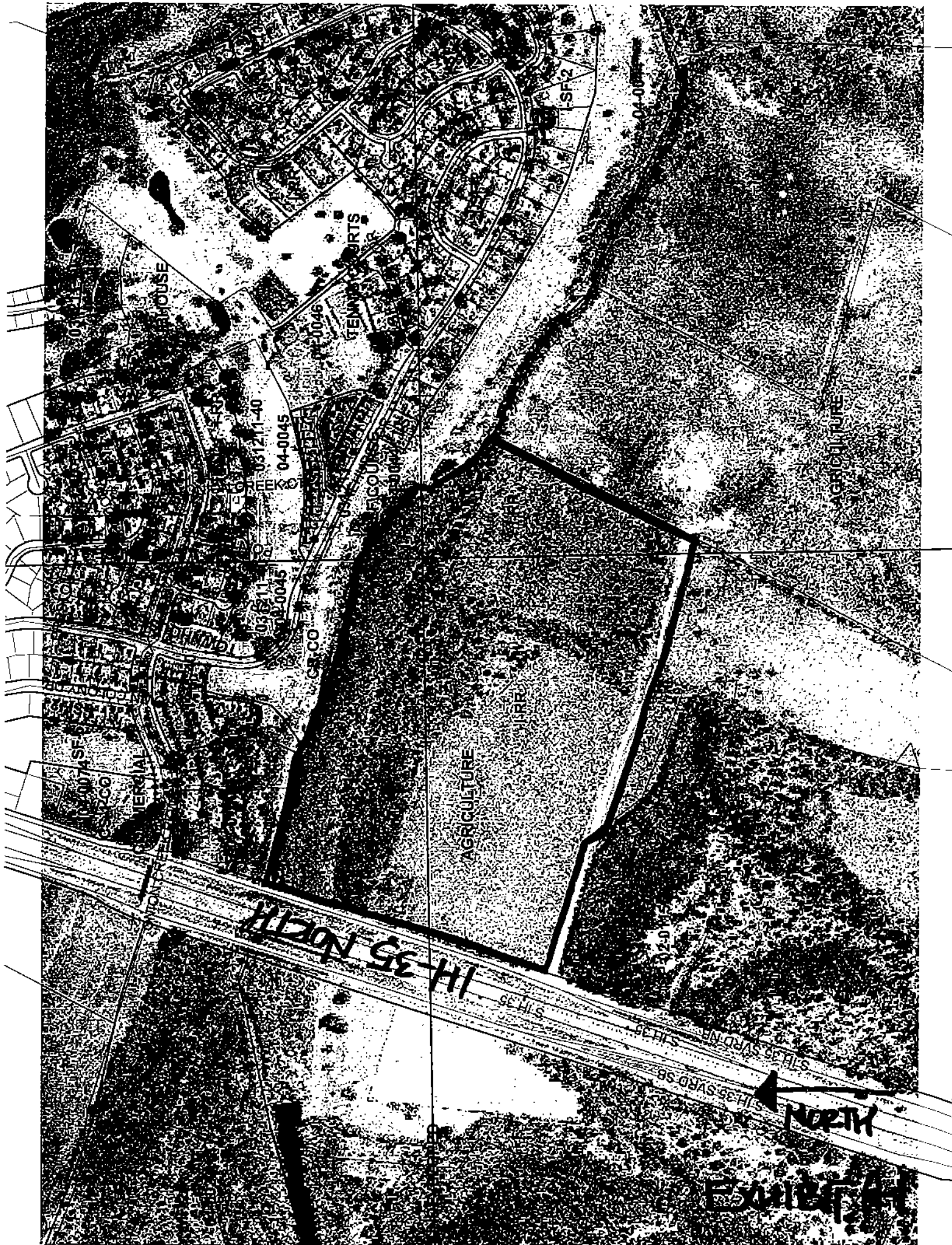
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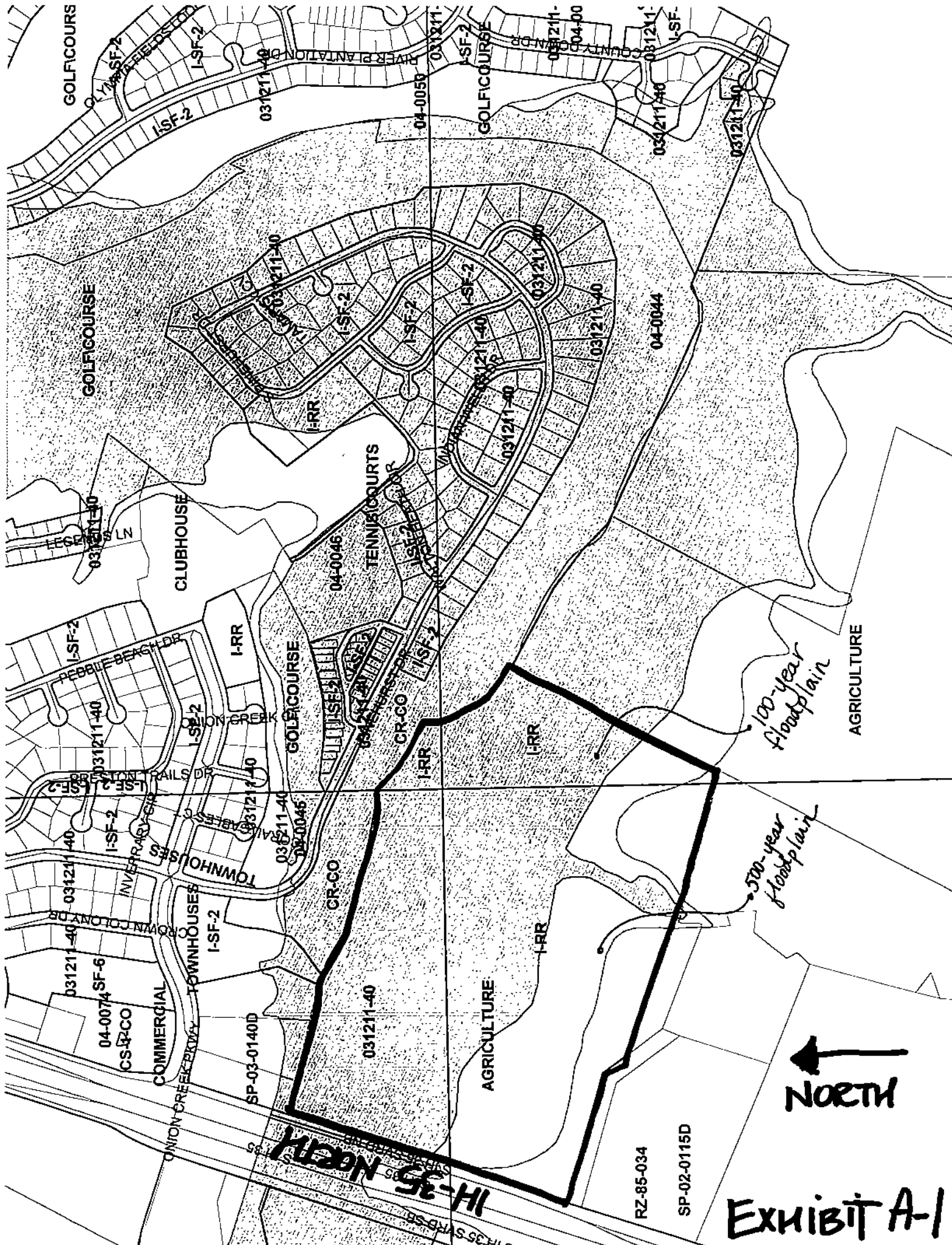
CASE MANAGER: Wendy Walsh
e-mail: wendy.walsh@ci.austin.tx.us

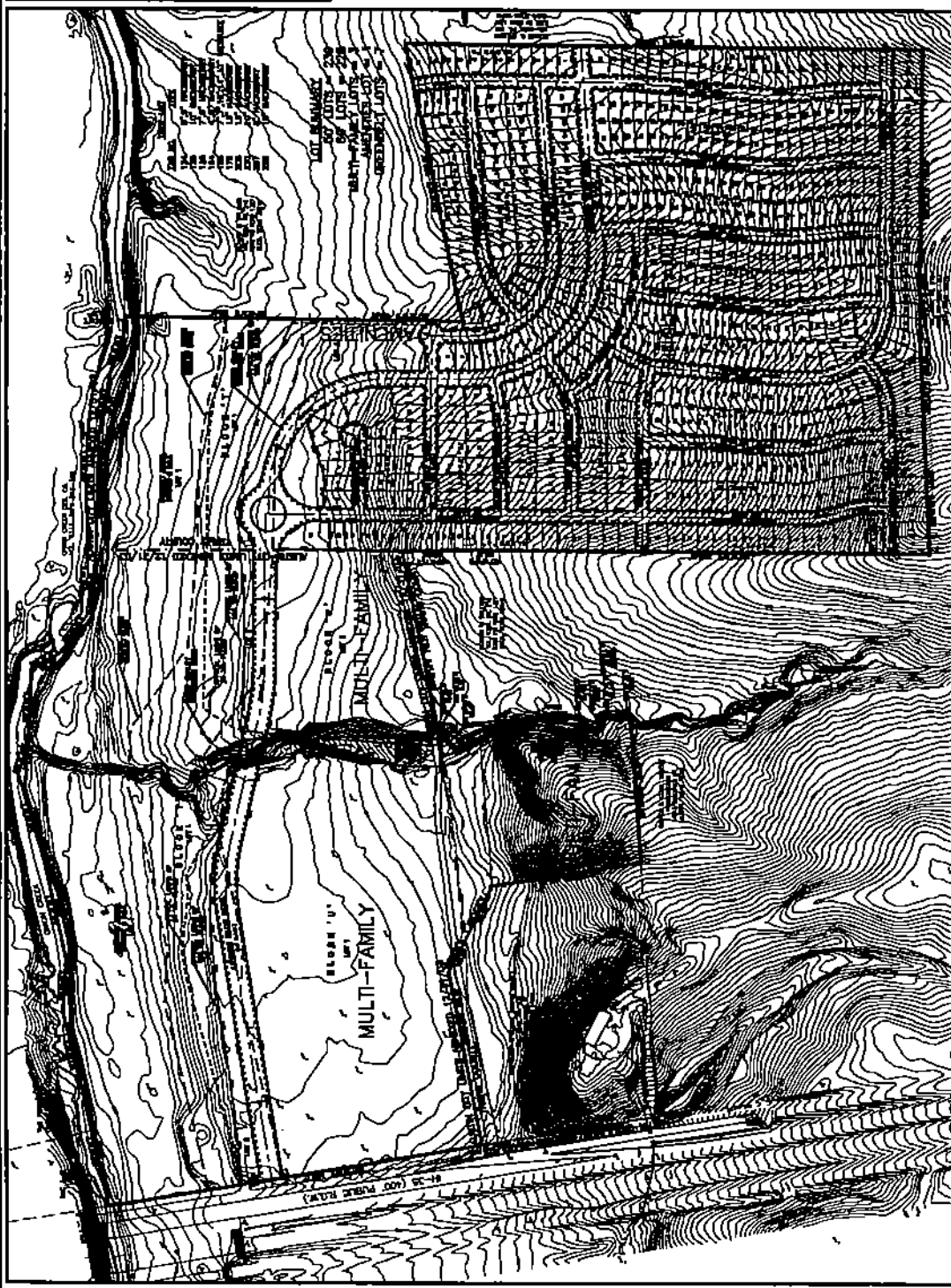
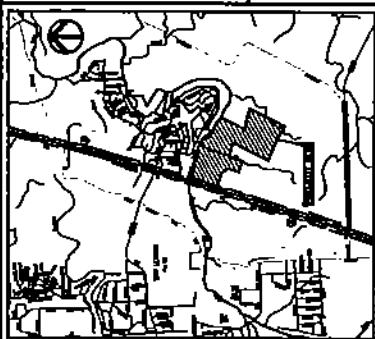
PHONE: 974-7719



 1" = 600'	SUBJECT TRACT 	ZONING EXHIBIT A CASE #: C14-06-0191 ADDRESS: 11421-11717 S IH 35 SV RD NB SUBJECT AREA (acres): 87.884	DATE: 07-01 INTLS: SM	CITY GRID REFERENCE NUMBER F11
	PENDING CASE 			
	ZONING BOUNDARY 			
	CASE MGR: W.WALSH			







SHEET INDEX

1.	PREDIMINARY PLAT - OVERALL
2.	NOTES AND TABLES
3.	PREDIMINARY PLAT - MULTI-FAMILY
4.	PREDIMINARY PLAT - SINGLE-FAMILY

ENGINEER
MUNLEY ENGINEERING, INC.
THOMAS R. MUNLEY, P.E.
1101 CAPITAL OF TEXAS HIGHWAY, SUITE 1100
AUSTIN, TEXAS 78748
PHONE 512.328.4242 FAX 512.328.9364

SURVEYOR
MCANDUS SURVEYING COMPANY, INC.
1101 CAPITAL OF TEXAS HIGHWAY, SUITE 1100
AUSTIN, TEXAS 78748
PHONE 512.328.8302 FAX 512.328.9364

Preliminary Plan for
~ **FOX HILL SUBDIVISION** ~
City of Austin - Travis County, Texas



44-38861-1000

OWNERS
ONCH ASSOCIATES, LTD.
4131 SPICEMOOD SPRINGS RD., SUITE H1
AUSTIN, TEXAS 78759

PRICE TO THE BUYER OF ANY FINAL PLAN OF ALL OF A PORTION OF THE FOLLOWING INFORMATION SHALL BE PROVIDED FOR THE FOLLOWING INFORMATION:

CONSTRUCTION AND SAFETY CONTRACTS AND OTHER RELATED ITEMS (E.G., LICENSE AND INSURANCE CONTRACTS, INSURANCE, CHARTER, WORK, PART IN CEMENT, PISTONS, TIED QUALITY POWER, ETC.) AS REQUIRED BY THE BUYER. THE INFORMATION WILL BE BASED ON THE FOLLOWING INFORMATION:

PRICE TO THE BUYER OF ANY FINAL PLAN OF ALL OF A PORTION OF THE FOLLOWING INFORMATION SHALL BE PROVIDED FOR THE FOLLOWING INFORMATION:

RELIANCE OF THE APPLICATION DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION, AND CIRCUMSTANCES SUPPLIED BY THE APPLICANT. THE CREDITORS OF RECORD ARE SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY, AND INTEGRITY OF THE/HER SUBMITTAL. VIOLATION OR NON-FULFILLMENT OF THE APPLICATION FOR THIS COMPLAINT.

EXHIBIT B
DRAFT
PRELIMINARY
PLAN



Date: January 25, 2007
To: Wendy Walsh, Case Manager
CC: John Hickman, John F. Hickman and Associates
Carol Barnes, COA Fiscal Officer
Reference: Fox Hill TIA ~ C14-06-0191

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Fox Hill, dated August 2006, prepared by John Hickman, John F. Hickman and Associates, and offers the following comments:

TRIP GENERATION

Fox Hill development is located in southeast Austin along the east side of IH-35 just south of Onion Creek Parkway.

The property is currently undeveloped and is zoned Interim Rural Residence (I-RR). The applicant has requested a zoning change to Rural Residence (RR), and Multi-Family (MF-2). The estimated completion of the project is expected in two phases with the first phase being complete in 2009 and the second phase being complete in the year 2016.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the hospital expansion will generate approximately 8,493 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

Table 1. Trip Generation				
LAND USE	Size (du)	ADT	AM Peak	PM Peak
Single Family *	467	4,292	336	429
Multi Family	624	4,201	316	395
TOTAL		8,493	652	824

* (area not included in rezoning but assumed in TIA)

ASSUMPTIONS

1. Traffic growth rates provided by the City of Austin were as follows:

Table 2. Growth Rates per Year	
Roadway Segment	%
All Roads	6.5%

2. In addition to these growth rates, background traffic volumes for 2005 included estimated traffic volumes for the following projects:

SP-02-0005D Terrace at Onion Creek
SP-02-0115D St. Alban's Episcopal Church Expansion
SP-04-0168D Double Creek Village
SP-06-0135C Colonial Grand at Onion Creek

ATTACHMENT A

3. No reductions were taken for pass-by, internal capture or transit.

EXISTING AND PLANNED ROADWAYS

IH-35 – This roadway is classified as a freeway and carried approximately 113,160 vehicles per day in 2002. IH-35 is in the Bicycle Plan as a priority 2 route.

Onion Creek Parkway – This roadway is classified as a collector roadway and carried approximately 2,880 vehicles per day in 2002.

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 6 intersections, 2 of which are or will be signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Table 3. Level of Service						
Intersection	2006 Existing		2009 Site + Forecasted		2016 Site + Forecasted	
	AM	PM	AM	PM	AM	PM
IH-35 EFR @ Onion Creek Parkway*	A	A	A	B	B	B
IH-35 WFR @ Onion Creek Parkway*	A	A	A	B	A	B
IH-35 @ Antone Blue			C	B	C	B
Antone Blue @ Multi Family Lot 1			C	C	C	C
Antone Blue @ Multi Family Lot 2			B	B	B	B
Antone Blue @ Multi Family Lot 4			B	B	B	B

* = SIGNALIZED

RECOMMENDATIONS

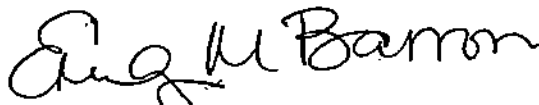
- 1) Prior to 3rd reading at City Council, fiscal is required to be posted or a phasing agreement completed for the following improvements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
IH-35 @ Onion Creek Parkway	Signal*	\$140,020	23.63%	\$33,083

*A signal will only be installed once warrants are met as determined by DPWT-Signals.

- 2) A northbound right-turn lane is required to be constructed, if approved by TXDOT, at the intersection of IH-35 and Antone Blue at the time Antone Blue is constructed.
- 3) Approval from TXDOT is required prior to scheduling the case for City Council.
- 4) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2788.



Emily M. Barron
Sr. Planner - Transportation Review Staff
Watershed Protection and Development Review

WINKLEY ENGINEERING, INC.**CIVIL ENGINEERING & CONSULTING SERVICES**

August 11, 2006

Map Modernization Project
Watershed Engineering Division
City of Austin – Watershed Protection and
Development Review Department
P.O. Box 1088
Austin, Texas 78767-1088

RE: Protest of Proposed Flood Plain Delineation
Map # 48453C0595G, Map Revised
Onion Creek and IH 35 South

This letter and the attachments shall serve as our basis for filing a 'Protest' for the subject property. As shown on the vicinity map, the property is located on the downstream southeastern quadrant of the Onion Creek crossing of IH 35 South.

The subject property is and has been used as farm land. As such there is continual modification of the land through clearing and general plowing and grading.

We have reviewed the proposed maps for this area and have a concern that the Flood Plain delineation is not correct with respect to the existing on the ground conditions. In order to substantiate this, we have contracted with a Registered Professional Surveyor to perform an on the ground survey.

The attached survey and letter were prepared by Harris- Grant Surveying, Inc. This survey represents a one foot contour interval map of the property, inset in the two foot aerial topographic maps available through the City of Austin. The survey encompassed that area, at and above, in which we believed the proposed map to be in error.

We requested and have received, with the attached survey, partial creek cross-sections. The location of the sections was based upon data received from the City of Austin as transmitted in electronic media to our firm, and which approximated the elevation sections shown on the proposed map. These sections are included for any additional studies you may deem necessary to substantiate the mapping.

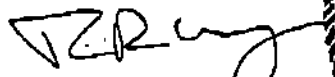
The areas in which the flood plain maps require revision are along the length of the Onion Creek boundary and the unstudied tributary to Onion Creek. We have shown the line along Onion Creek that we believe to best represent the flood elevations shown on your maps. It is this line that should be shown on the maps when they are published. Additionally, we request that the unnamed tributary flood plain be shown to conform to the topography on our maps.

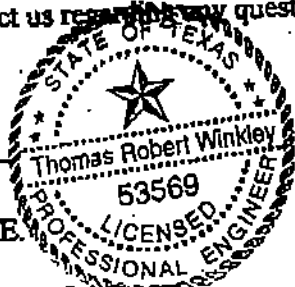
Attachment B

It is our desire to have any and all issues relating to this Protest resolved during the 90 day review process referenced in guidelines. We are prepared to respond to any questions that may arise on an immediate basis in order to achieve resolution within a timely basis.

Please feel free to contact us regarding any question you may have.

Sincerely,


Thomas R. Winkley, P.E.



TRW/dsoff: attachments – Vicinity Map

Hard Copy of Topographic Map

Electronic File of Topographic Map

Overlay Map of Field Located Flood Plain

Letter form Harris-Grant Surveying, Inc.

cc: Gary Kosut, P.E., City of Austin, w/ attachments

Pang Xin Yu, Ph.D., P.E., P.H., CFM, City of Austin, w/ attachments



NATIONAL FLOOD INSURANCE PROGRAM

FEMA NATIONAL SERVICE PROVIDER

November 14, 2006

The Honorable Will Wynn
Mayor, City of Austin
P.O. Box 1088
Austin, TX 78767

IN REPLY REFER TO:
175-P

Dear Mayor Wynn:

This letter acknowledges the receipt of letters dated September 18, 2006 and September 22, 2006, from Mr. Gary M. Kosut, P.E., of the City of Austin Watershed Protection and Development Review Department, regarding the Preliminary copies of the Flood Insurance Study (FIS) report and Digital Flood Insurance Rate Map (DFIRM) for Travis County, TX and Incorporated Areas, dated February 24, 2006. In the letters, Mr. Kosut submitted 14 protests from Austin property owners (11 in one submittal, and 3 in a follow up submittal), 9 protests from the City of Austin, one appeal from an engineer, and 5 appeals from the City of Austin. For the purpose of this acknowledgement letter, only the cases deemed protests are addressed. Cases deemed appeals will be addressed in another letter. The protest cases and their assigned case numbers are listed below. *(This letter is an addendum to the acknowledgement letter sent to you on October 16, 2006. The case below was not included on that letter).*

<u>Case Number</u>	<u>Appellant and Description</u>
TRA_TX_218	Thomas R. Winkley, PE Onion Creek crossing of IH 35 South. Protest of Floodplain.

Because the cases do not comment on the elevations of the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood) shown on the Preliminary DFIRM, we cannot review the cases as appeals in accordance with the provisions of Title 44, Chapter I, Part 67, Code of Federal Regulations. Therefore, we will review the cases as protests.

We will evaluate the issues raised in the referenced letters and enclosures. If additional information is required to resolve the appeal, we will contact your community. If warranted, the Federal Emergency Management Agency (FEMA) will revise the FIS report and DFIRM and send revised copies to your office for review. Until the appeal is resolved, FEMA will not issue a Letter of Final Determination; therefore, the processing of the FIS report and DFIRM for your community will be delayed.

If you have any questions regarding this matter, please contact Jack Quarles, P.E. of the FEMA staff in Denton, Texas, either by telephone at 940-898-5156 or by email at jack.quarles@dhs.gov.

Sincerely,

Michael C. Anderson, P.E., CFM
Manager, Regional Management Center

101 South Locust Street Suite 300, Denton, TX, 76201, 940-783-4155 FX: 940-783-4144

The Mapping on Demand Team, under contract with the Federal Emergency Management Agency, is the National Service Provider for the National Flood Insurance Program

cc: Ray Windsor
Floodplain Administrator, City of Austin

Thomas R. Winkley, P.E.
Winkley Engineering, Inc.

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant rural residence (RR) district zoning for Tract 1 and multi-family residence low density – conditional overlay (MF-2-CO) combining district zoning for Tract 2. The Conditional Overlay limits the density to 12 units per acre.

The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated January 25, 2007, as provided in Attachment A.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. The proposed zoning should be consistent with the purpose statement of the district sought.

For Tract 1: The RR, Rural Residence district is intended as an area for very low density residential use, with a minimum lot size of one acre. This district is appropriate for selected locations where rural characteristics are desired, or where terrain or public service capacities necessitate very low densities.

For Tract 2: The MF-2, Multi-Family Residence district is intended to accommodate multifamily use with a maximum density of up to 23 units per acre, depending on unit size. This district is appropriate given its location near supporting transportation and commercial facilities.

2. Zoning changes should promote an orderly and compatible relationship among land uses.

Rural residence zoning is an appropriate district for Onion Creek and its 100-year floodplain and MF-2 zoning is an appropriate residential district and density along the IH-35 northbound frontage road, in proximity to a residential subdivision, and is consistent with a similarly situated multi-family residential development directly on the north side of the Onion Creek subdivision.

EXISTING CONDITIONS**Site Characteristics**

The subject property is in agricultural use and slopes towards the north, toward Onion Creek which extends through Tract 1.

Impervious Cover

The maximum impervious cover allowed by the RR zoning district is 25%, based on the more restrictive zoning regulations and 60% for the MF-2 district, a consistent figure between the zoning and watershed regulations.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Onion Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is a floodplain within the project boundary. Offsite drainage should be calculated to determine the exact location of the boundaries. No development is permitted in the Critical Water Quality Zone, while impervious cover is limited to 30% in the Water Quality Transition Zone.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Transportation

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA [LDC, Sec. 25-6-142]. Comments are provided in Attachment A.

Water and Wastewater

The subject tract is within the Creedmoor-Maha Water Supply Corporation CCN and water utility service must be obtained from the Creedmoor-Maha Water Supply Corporation. The

landowner must provide written evidence that Creedmoor Maha Water Supply Corporation will provide domestic water service and fire protection in accordance with the City of Austin utility design criteria, per the requirements defined by the Austin Fire Department, and per the City of Austin fire code. The City should not approve the subject case until the landowner has provided the written evidence.

Currently, there is no City of Austin wastewater main at the site and the landowner does not have a City of Austin wastewater utility service commitment. In order to obtain City of Austin wastewater utility service, the landowner must obtain City approval of a Service Extension Request. The City should not approve the subject application until the landowner has obtained City approval of a Service Extension, the landowner has a City wastewater service commitment, and the required wastewater offsite main extension, system upgrades, and utility improvements are defined.

The Austin Water Utility reserves the right to make additional comments and to establish other requirements with the City review of the Service Extension Request. The landowner, at his own expense, will be responsible for providing the wastewater utility improvements, offsite main extension, and system upgrades. Also, the landowner must pay all associated City fees.

All water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The water and wastewater utility construction must be inspected by the City. The landowner must pay the City inspection fee with the utility system construction.

The landowner, at his own expense, will be responsible for providing the City required onsite easements and all required offsite easements for City utility service. The easements must be for locations defined by the Austin Water Utility and must be in a form approved by the City.

Compatibility Standards

Neither the RR nor the MF-2 zoning districts would trigger the application of compatibility standards to adjacent properties.

Walsh, Wendy

From: Justin Spillmann [justin@charlesbrownlaw.com]
Sent: Thursday, February 15, 2007 11:15 AM
To: Walsh, Wendy
Cc: justin@charlesbrownlaw.com
Subject: Fox Hill - Request for postponement

Wendy:

Thank you for calling me back this morning regarding the Fox Hill subdivision. As stated, I represent the Spillmann tract of land that surrounds the proposed Fox Hill subdivision.

I have several concerns that I think need to be addressed before the city council approves the zoning application. Therefore, I respectfully request that the zoning case be postponed until March 8, 2007.

The following are some of my concerns:

1. It appears as if a portion of the property to be zoned MF-2 is actually part of the 100 year floodplain. Page 2 of the zoning change review sheet states that RR zoning is appropriate for Onion Creek and its 100 year floodplain and MF-2 is appropriate for the other portions. I do not fully understand why a portion of the floodplain is included in the MF-2 zoning area, when the review sheet states that RR is appropriate for such portions. The private deed restrictions, discussed in more detail below, state that development should be limited to **12 units per acre not in the 100-year floodplain**. Therefore, I believe zoning a portion of the floodplain as MF-2 could be problematic, due to the fact that the developer could comply with the zoning regulations but not the private restrictive covenants affecting the property.
2. There is a set of private restrictive covenants recorded between LIC (the prior owners of the Onion Creek Golf Course and the subject property) and Onion89, Inc. (the purchaser from LIC). I was surprised to hear that you were not aware of these restrictive covenants. In regard to the covenants, there are several provisions that protect the Onion Creek subdivision to a greater extent than the other surrounding properties, including but not limited to construction standards, set-backs, and location of storage facilities for boats, trailers, etc. Additionally, the ability to enforce the covenants lies with LIC and the owners of the golf course. LIC has since sold off almost all of their assets in the area, and therefore have limited incentive to enforce the restrictions in the future.
3. In regard to the TIA, it does not appear that the TIA included the possibility of Antone Blue being connected to Bradshaw Rd to the east. Only this past Monday, Feb. 12, 2007 has the applicant approached my family regarding specific plans to traverse our property to connect to Bradshaw Road. If this proceeds, it will result in significantly more traffic on Antone Blue, as vehicles in the Bella Fortuna (Buratti) subdivision would utilize the road, as would any future development that may occur on my family's property. The intersection of Antone Blue at Multi Family Lot 1 is already grading out at a C for both 2009 and 2016 in the TIA. The Fox Hill developer has plans to develop the Bella Fortuna (Buratti) tract to the east, which would create a significant burden on Antone Blue—even if my family's property wasn't developed—especially in light of the fact that there are other significant developments being constructed on Bradshaw Rd.
4. In regard to wastewater, there is no easement in place for wastewater services to be provided to the subject property.

I believe that there will be a significant impact on my family's property. The MF-2 zoning area is adjacent to our property, and is not shielded from us in the same manner that Onion Creek itself and the RR zoning area shield the MF-2 area from the Onion Creek subdivision. The fact that my family has no enforcement authority in the private restrictive covenants, and since the city does not routinely enforce private covenants, suggests that our land will be impacted by this development to a greater degree than the Onion Creek subdivision, without allowing us any protection.

I respectfully request that this zoning case be postponed until these issues can be addressed. Feel free to contact me if you have any questions.

2/15/2007

Thank you,
Justin Spillmann

Justin Spillmann
Attorney at Law
Charles E. Brown P.C.
3624 North Hills Dr.
Suite B-100
Austin, TX 78731
(512) 346-6000
(512) 346-6005 fax



March 4, 2007

Ms. Wendy Walsh, Zoning Planner
Neighborhood Planning and Zoning Department
City of Austin
505 Barton Springs Road
Austin, TX 78704

Re: Review of meeting held today on the zoning request for 87.884 acres of land, City Case Number C14-06-0191

Dear Ms. Walsh,

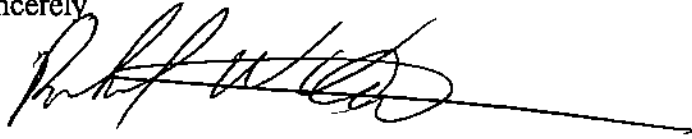
We would like to thank you for taking the time to meet with Mr. Morrison and me this morning to review the issues and questions raised in Mr. Spillmann's email of February 15, 2007. The following outlines the key issues discussed during the meeting:

- The questions relating to the zoning of a portion of the 100-year flood plain MF-2 was reviewed. We agree that the existing flood plain elevation as determined by FEMA and the City of Austin is correct. We have also conducted an on the ground survey to determine the correct depictions of those elevations. The 100-year flood plain as shown on the preliminary plan and zoning request reflects the actual location of the flood plain on the Fox Hill property.
- We provided you with a copy of the private restrictive covenant that was worked out with LIC and the Onion Creek Club. These standards have been agreed to and the covenant recorded on the Official Public Records, of Travis County. Specific first floor screening standards such as landscaping or fencing between visible existing residential improvements and our proposed improvements have been established. These standards have been placed on the development for the benefit of the entire area. Enforcement provisions have been established for the review and approval of the design standards established in the covenant.
- The TIA was specific to the proposed subdivision. However, when consideration of the extension of the collector road through the Spillmann tract and the Buratti tract is taken into account, with all of the potential development on those tracts, then the roadway would still operate at a level acceptable to the City and County. The reasoning behind this is that the future easterly extension through the Buratti Tract to the divided four lane South Pleasant Valley Road extension would provide another significant artery for the future area traffic.

- Wastewater service to this property will be provided by the City of Austin. Service will be by the installation of a lift station and force main installed on the Fox Hill property. The facilities have been sized to accommodate the existing drainage basin. The lift station and force main will serve the portion of the Spillmann property that drains through Fox Hills.

If you have any questions, please feel free to contact me at your convenience.

Sincerely

A handwritten signature in black ink, appearing to read 'Richard W. Vaughn', with a long horizontal line extending to the right.

Richard W. Vaughn, APA, C.E.T.
Principal



Vaughn & Associates

March 7, 2007

Mr. Justin Spillmann
3624 North Hills Drive, Suite B-100
Austin, TX 78731

Ms. Wendy Walsh, Zoning Planner
Neighborhood Planning and Zoning Department
City of Austin
505 Barton Springs Road
Austin, TX 78704

Re: Response to questions raised relating to the zoning request for 87.884 acres of land, City Case Number C14-06-0191

Dear Mr. Spillmann and Ms. Walsh,

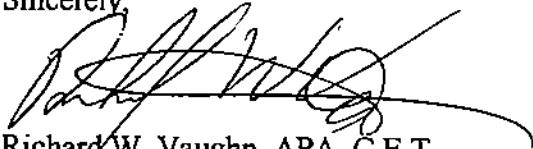
This letter is prepared to respond to questions Mr. Spillmann posed to Mr. Morrison by phone on March 6, 2007. The following outlines the key issues discussed during the meeting:

- Mr. Spillmann raised the question; was a permit acquired for the erosion control work that was done on the property in previous years? The activity on the property was for agricultural purposes. No permit is required for agricultural erosion control work. The city of Austin environmental department came out and inspected the erosion control work and took pictures of the winter wheat crop being planted. They acknowledged that no permitting is required for agricultural erosion control.
- Mr. Spillman has raised concerns that the erosion control work done on the property in previous years added to the hydraulic surface elevations of the Onion Creek 100 year flood plain. If anything, the enormous amount of brush and debris and silt that was removed from the floodplain portion of the property aided in the ability of the flood waters to flow through the property. The City of Austin Engineering department has confirmed that the hydraulic surface elevation of the 100 year flood plain was not negatively impacted by this activity.
- The question of notification by FEMA to area property owners was raised. The notification for all parties is the same. It is a Public Notice posted in the newspapers of general circulation in the area where the property is located. The second notice for the proposed FEMA changes was posted in the American Statesman last June.

- Mr. Spillmann's third question related to the use of the term "benefit" in my letter to Wendy Walsh at Neighborhood Planning and Zoning Department. The term was used to address the quality of the proposed project. The performance standards for the project are such that there will not be an adverse effect on the surrounding area. If you have specific questions please feel free to contact us so we can address the details with you.
- The capacity of the wastewater system proposed in the Fox Hill, SER request to the City was questioned. The sizing of facilities, for land that is undeveloped or has no development plan, is based upon a reasonable average density that would be anticipated within an area. The assumptions for LUE's per acre are a function of potential land use and area development. These assumptions are generally conservative and are reviewed by the facility provider (City of Austin) to ensure that they meet their criteria for adequate capacity.

If you have any questions, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Vaughn", written over a horizontal line.

Richard W. Vaughn, APA, C.E.T.
Principal

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RECEIVED:
MARCH 7, 2007

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Ms. Wendy Walsh, Zoning Planner
Neighborhood Planning and Zoning Department
City of Austin
505 Barton Springs Road
Austin, TX 78704

Via email: Wendy.Walsh@ci.austin.tx.us

Re: Case Number C14-06-0191 (Fox Hill)

Dear Ms. Walsh:

It was good to see you late Monday afternoon. Jerry Rusthoven was helpful in your absence, and I appreciate the fact that you were able to arrange for the meeting to proceed under the circumstances with the computer problem you were experiencing.

I would like to formalize a response to Mr. Vaughn's letter dated March 4, 2007 and to my conversation with Mr. Morrison yesterday afternoon.

1. In regard to the flood plain, a possible reason for the discrepancy between the maps is that fill was brought onto the land in question from property in the county by the applicant's representative, as I discussed with Mr. Rusthoven. I think it is important for the city to determine whether this fill was legally deposited onto the property and to verify the precise location of the flood plain before acreage that is in the flood plain is zoned MF-2. In a prior telephone conversation with Mr. Morrison, he mentioned that he was told of the plan to put two feet of fill on the property, but he has been unable to answer my question as to whether this was done legally.

2. In regard to the restrictive covenants between LIC and the applicant, there are numerous provisions which provide a greater benefit to the Onion Creek subdivision as compared to the benefit provided to other neighboring properties. Additionally, I have been told that the applicant does not want to expand the scope of who has enforcement rights under the covenants. Furthermore, several of the covenants have been openly violated by the applicant. To specify some of the violations, the applicant allowed hunting on the property—violating paragraph 3.16H—and **interfered with the existing drainage patterns over the Property** when the fill was added—violating paragraph 3.16G, as I have not been provided any information showing that the committee approved this change, which is required in the restrictions. I understand that it is not the city's responsibility to enforce private restrictive covenants, but the city should not base their approval of the zoning change on the fact that a private set of restrictions has been implemented when the applicant has clearly intentionally violated the covenants, and

enforcement has not occurred. Nor should the city unknowingly believe that all surrounding property owners are treated similarly under the restrictions.

3. In regard to the TIA, there is no guaranty as to the timeliness of the extension of South Pleasant Valley Road. Other surrounding property owners had no idea that Pleasant Valley was proposed to be extended, and were surprised when I made them aware of this fact.

4. There are significant developments planned in the area that will drain toward Fox Hills. After contacting other surrounding property owners, I have been advised that the lift station and force main as I have been shown will not meet the needs of the area. I further understand that the applicant has failed to return phone calls from the representatives of surrounding landowners that were trying to discuss the utility capacity with the applicant. It is hard to imagine how the applicant can state that the proposed service is sufficient when they haven't talked with surrounding landowners.

I believe that the council needs to have complete information when reviewing a zoning request. I understand that this item will be postponed for two weeks at the staff's request in order to allow the applicant to address the matters more completely, and to allow the city time to evaluate all of the information.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Spillmann", with a stylized flourish at the end.

Justin Spillmann

cc: Jerry Rusthoven, via email